

LEGISLATURE OF THE STATE OF IDAHO  
Sixty-second Legislature First Regular Session - 2013

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 110

BY AGRICULTURAL AFFAIRS COMMITTEE

AN ACT

RELATING TO DAIRY PRODUCTS; AMENDING SECTION 25-3101, IDAHO CODE, TO REVISE VERBIAGE; AMENDING SECTION 25-3103, IDAHO CODE, TO REVISE VERBIAGE, TO REMOVE A DEFINITION, TO REVISE A DEFINITION AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 25-3107, IDAHO CODE, TO REVISE VERBIAGE AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 25-3109, IDAHO CODE, TO REMOVE REFERENCE TO AN ADMINISTRATOR, TO PROVIDE THAT THE IDAHO DAIRY PRODUCTS COMMISSION MAY EMPLOY A DIRECTOR AND TO REMOVE PROVISIONS RELATING TO FIDELITY BONDS; AMENDING SECTION 25-3111, IDAHO CODE, TO REVISE VERBIAGE, TO REMOVE DUPLICATIVE VERBIAGE AND TO REVISE CERTAIN DUTIES, AUTHORITIES AND POWERS OF THE COMMISSION; AMENDING SECTION 25-3113, IDAHO CODE, TO REVISE BONDING REQUIREMENTS AND TO REVISE VERBIAGE; AMENDING SECTION 25-3114, IDAHO CODE, TO REMOVE REFERENCE TO AN ADMINISTRATOR, TO PROVIDE FOR THE APPOINTMENT, DUTIES AND SALARY OF THE DIRECTOR AND TO REVISE VERBIAGE; AMENDING SECTION 25-3115, IDAHO CODE, TO REMOVE REFERENCE TO AN ADMINISTRATOR, TO PROVIDE FOR THE OFFICE OF THE DIRECTOR AND TO REVISE VERBIAGE; AMENDING SECTION 25-3116, IDAHO CODE, TO REVISE LIABILITY PROVISIONS; AMENDING SECTION 25-3121, IDAHO CODE, TO REVISE VERBIAGE AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION 25-3122, IDAHO CODE, TO REVISE VERBIAGE AND TO MAKE A TECHNICAL CORRECTION.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 25-3101, Idaho Code, be, and the same is hereby amended to read as follows:

25-3101. PROTECTION OF DAIRY MARKETS -- PURPOSE. It is to the interest of all the people that the abundant natural resources of Idaho be protected, fully developed and uniformly distributed. Among the agricultural industries of the state of Idaho that contribute to the economic welfare of the state is the dairy industry. Because of problems incurred in marketing the dairy products produced in this state and because this marketing has become more and more difficult in the presently available markets, it is necessary, in order to provide a profitable enterprise for the dairy industry of the state and to promote employment labor and to assist the dairymen of the state and those in the various industries dependent upon the dairymen, that additional markets be found and developed. It is the purpose of this ~~act~~ chapter to promote the public health and welfare of the citizens of our state by providing means for the protection, promotion, study, research, analysis and development of markets concerning the production and marketing of Idaho dairy products.

SECTION 2. That Section 25-3103, Idaho Code, be, and the same is hereby amended to read as follows:

1        25-3103. DEFINITIONS. As used in this ~~act~~ chapter, unless the context  
2 requires otherwise:

3        (1) "Commission" means the Idaho dairy products commission;

4        (2) To "ship" means to deliver or consign milk or cream to a person deal-  
5 ing in, processing, distributing, or manufacturing dairy products for sale,  
6 for human or animal consumption, industrial or medicinal uses;

7        (3) "Dealer" means one who handles, ships, buys, processes, and sells  
8 dairy products, or who acts as sales or purchasing agent, broker, or factor  
9 of dairy products;

10       (4) "Producer" means a person who produces milk from cows and sells it  
11 for human or animal food, or medicinal or industrial uses;

12       (5) "Producer-handler" means any person who produces milk or milk fat  
13 and uses such production, or any part of it, for processing. For the pur-  
14 poses of this ~~act~~ chapter, a producer-handler is a producer in any transac-  
15 tion which involves the delivery of unprocessed milk or milk fat produced by  
16 him or received from another producer and processed by such producer-han-  
17 dler;

18       ~~"Director" means the director of the department of agriculture of the~~  
19 ~~state of Idaho;~~

20       (6) "Department" means the Idaho state department of agriculture-;

21       (7) "Person" means and includes individuals, corporations, partner-  
22 ships, trusts, associations, cooperatives and any and all other business  
23 units, devices and arrangements.

24       SECTION 3. That Section 25-3107, Idaho Code, be, and the same is hereby  
25 amended to read as follows:

26       25-3107. PRODUCER MEMBERS -- NOMINATIONS -- ELECTIONS. Producer mem-  
27 bers of the commission shall be nominated and elected by producers within  
28 the district that such producer members represent in the year in which a  
29 commission member's term shall expire. Such producer members receiving  
30 the largest number of the votes cast in the respective districts which they  
31 represent shall be elected. The election shall be by secret mail ballot and  
32 under the supervision of the ~~state department of agriculture~~.

33       Nomination for candidates to be elected to the commission shall be con-  
34 ducted by a nominating committee. Thirty (30) days prior to the date of elec-  
35 tion, the commission shall select a nominating committee from the district,  
36 ~~who which~~ in turn will present the names of three (3) qualified nominees; in  
37 addition thereto, producer members of the commission may be nominated by a  
38 petition of nomination signed by not less than twenty-five (25) active pro-  
39 ducers, each of whom shall reside in the district wherein the nominee re-  
40 sides, and the names of all such nominees nominated by petition shall be pre-  
41 sented to the ~~state department of agriculture~~ not later than the first day of  
42 May of the year in which the election for such district is to be held.

43       Ballots for electing members to the commission will be mailed by the de-  
44 partment to all eligible producers no later than May 15~~th~~ in districts where  
45 elections are to be held and such ballots to be valid shall be returned post-  
46 marked no later than May 31~~st~~ of the year mailed, to the department.

47       All costs and expenses of the department shall be paid by the commis-  
48 sion. All materials and other necessary supplies shall be provided to the  
49 department at its request.

SECTION 4. That Section 25-3109, Idaho Code, be, and the same is hereby amended to read as follows:

25-3109. COMMISSION CHAIRMAN -- ~~ADMINISTRATOR~~ DIRECTOR -- ~~FIDELITY BOND~~. The commission shall elect a chairman and may employ ~~an administrator~~ a director who is not a member of the commission. ~~The commission shall require the administrator of the commission to give a fidelity bond executed by a surety company authorized to do business in this state in favor of the commission, in such sum, and containing such terms and conditions, as the commission may prescribe. The cost of any such fidelity bond shall be paid from moneys collected pursuant to this act.~~

SECTION 5. That Section 25-3111, Idaho Code, be, and the same is hereby amended to read as follows:

25-3111. POLICIES -- DUTIES, AUTHORITIES, AND POWERS. (1) Consistent with the general purposes of this ~~act~~ chapter, the commission shall establish the policies to be followed in the accomplishments of such purposes.

(2) In the administration of this ~~act~~ chapter, the commission shall have the following duties, authorities and powers:

(a) To conduct a campaign of research, education and publicity.

(b) To find new markets for dairy products and their by-products.

(c) To give, publicize and promulgate reliable information showing the value of milk, cream, and dairy products for any purpose for which they are found useful and profitable.

(d) To make public and encourage the widespread national and international use of dairy products and by-products produced in Idaho.

(e) To investigate and participate in studies of the problems peculiar to the dairy producers in Idaho.

~~(3) The commission shall have the duty, power and authority:~~

~~(a)~~ (f) To take such action as the commission deems necessary or advisable in order to stabilize and protect the dairy industry of the state and the health and welfare of the public.

~~(b)~~ (g) To sue and be sued.

~~(c)~~ (h) To enter into such contracts as may be necessary or advisable.

~~(d)~~ (i) To ~~appoint and employ, and at its pleasure discharge, officers, agents, attorneys and such other personnel as it deems necessary,~~ including experts in agriculture and dairying and the publicizing of the products thereof, and to prescribe their duties and to fix their compensation.

~~(e)~~ (j) To make use of such advertising means and methods as the commission deems advisable and to enter into contracts and agreements for research and advertising within and without the state.

~~(f)~~ (k) To cooperate with any local, state or national organization or agency, whether voluntary or created by the law of any state or by national law, engaged in work or activities similar to the work and activities of the commission, and to enter into contracts and agreements with such organizations or agencies for carrying on a joint campaign of research, education and publicity in reciprocal enforcement.

~~(g)~~ (l) To lease, purchase or own real or personal property deemed necessary in the administration of this ~~act~~ chapter.

(~~h~~m) To investigate and prosecute in the name of the state of Idaho violations of the provisions of this chapter or any suit or action for collection of the tax or assessment provided for in this ~~act~~ chapter, or to protect brands, marks, brand names, trademarks or other intellectual property rights being promoted or used by the commission.

(~~i~~n) To adopt, rescind, modify and amend all necessary and proper orders, resolutions and regulations for the procedure and exercise of its powers and the performance of its duties.

(~~j~~o) To incur indebtedness and carry on all business activities.

(~~k~~p) To keep books and records and accounts of all its doings, which books, records and accounts shall be open to inspection by the state controller and public at all times.

SECTION 6. That Section 25-3113, Idaho Code, be, and the same is hereby amended to read as follows:

25-3113. ~~BOND REQUIREMENT~~ BONDS OF AGENTS AND EMPLOYEES. The ~~commission may require the administrator~~ director, or any agent or employee appointed by the commission, ~~to give a bond payable shall be bonded to the state of Idaho in the amount and with the security and containing the terms and conditions the commission prescribes time, form and manner as prescribed by the provisions of chapter 8, title 59, Idaho Code.~~ The cost of the bond is an administrative expense under this ~~act~~ chapter.

SECTION 7. That Section 25-3114, Idaho Code, be, and the same is hereby amended to read as follows:

25-3114. ~~ADMINISTRATOR OF THIS ACT --~~ APPOINTMENT OF DIRECTOR -- DUTIES -- SALARY. The commission shall appoint ~~an administrator~~ a director who shall devote full time to the administration of this ~~act~~ chapter. He shall proceed immediately to prepare the plans and general program necessary and adequate to carry out the policies that are adopted by the commission. The ~~administrator~~ director shall be paid a reasonable salary fixed by the commission, commensurate with his duties, and all necessary expenses.

SECTION 8. That Section 25-3115, Idaho Code, be, and the same is hereby amended to read as follows:

25-3115. ~~OFFICE FOR ADMINISTRATOR~~ DIRECTOR. For the convenience of the majority of those most likely to be affected in the administration of this ~~act~~ chapter, the ~~administrator~~ director, upon recommendation of the commission, shall establish and maintain an office for the ~~administrator~~ director within the state of Idaho.

SECTION 9. That Section 25-3116, Idaho Code, be, and the same is hereby amended to read as follows:

25-3116. ~~NONLIABILITY OF~~ LIMIT ON STATE LIABILITY. ~~The state of Idaho is not liable for the acts or omissions of the commission or any member thereof or any officer, agent or employee thereof~~ All contractual expenses incurred by the commission in performing its duties and exercising its pow-

ers shall be without liability on the part of the state. All tort obligations arising out of acts and omissions of the commission are binding on the state of Idaho as, and to the extent, provided for in chapter 9, title 6, Idaho Code.

SECTION 10. That Section 25-3121, Idaho Code, be, and the same is hereby amended to read as follows:

25-3121. VIOLATION OF THIS ACT CHAPTER -- MISDEMEANOR -- FINES. Any person who shall violate or aid in the violation of any of the provisions of this ~~act~~ chapter shall be guilty of a misdemeanor and upon conviction thereof be punished by a fine of not more than three hundred dollars (\$300.00) or imprisonment not to exceed ninety (90) days, or both. Fines collected for violation of this ~~act~~ chapter shall be paid into the "Idaho dairy products commission fund."

SECTION 11. That Section 25-3122, Idaho Code, be, and the same is hereby amended to read as follows:

25-3122. REFERENDUM REGARDING CONTINUANCE OF COMMISSION. After five (5) years from the date the commission was created, a referendum may be held at the petition of the producers or at the request of the commission. The question shall be submitted by secret ballots upon which the words "For continuance of the Idaho Dairy Products Commission" and "Against continuance of the Idaho Dairy Products Commission" are printed, with a square before each proposition and a direction to insert an "X" mark in the square before the proposition which the voter favors. In the event a referendum is held as provided in this section, no further referendum on the question of discontinuance of such commission shall be held within five (5) years from the date the result of the previous referendum was declared.

The referendum must be held and supervised by the department of agriculture upon its receiving either of the following:

(1) A petition signed by twenty percent (20%) of the producers or two thousand (2,000) producers, whichever is less.

(2) At written request from the commission.

(3) The commission shall pay the costs of any such referendum.

The referendum shall be held, notice thereof given, expenses thereof paid and the result determined, declared and recorded in the office of the secretary of state. No hearings or district meetings shall be made prior to the referendum upon the question of determining whether such referendum should be held.

Notice of such referendum must be given by the commission in a manner determined by them. The ballots must also be prepared by the commission and forwarded to the producer members who shall return them within twenty (20) days after mailing by the commission.